United Nations A/ES-10/PV.30

General Assembly
Tenth Emergency Special Session

Official Records

30th meeting
Friday, 15 December 2006, 10 a.m.
New York

President: Ms. Haya Rashed Al Khalifa ..... (Bahrain)

The meeting was called to order at 10.50 a.m.

Resumption of the tenth emergency special session

The President (*spoke in Arabic*): I declare resumed the tenth emergency special session of the General Assembly, on illegal Israeli actions in occupied East Jerusalem and the rest of the occupied Palestinian territory.

Members will recall that, in paragraph 13 of resolution ES-10/16, of 17 November 2006, the General Assembly decided to adjourn the tenth emergency special session temporarily and to authorize the President of the General Assembly at its most recent session to resume its meeting upon request from Member States.

In that connection, I should like to draw the attention of delegations to the following: document A/ES-10/370, which contains a letter dated 20 November 2006 from the Permanent Representative of Qatar to the United Nations, in which he requests, on behalf of the States members of the League of Arab States, the resumption of the tenth emergency special session, to consider especially the report of the Secretary-General (A/ES-10/361) concerning the register of damage caused by Israel's construction of the wall in the occupied Palestinian territory, including East Jerusalem; document A/ES-10/371, which contains a letter dated 28 November 2006 from the Chargé d'affaires ad interim of the Permanent Mission of Cuba to the United Nations, in her capacity as the Chair of the Coordinating Bureau of the Non-Aligned Movement, by which she conveys the support of the Non-Aligned Movement for the request for the resumption of the tenth emergency special session; and document A/ES-10/372, which contains a letter dated 30 November 2006 from the Permanent Representative of Azerbaijan to the United Nations, in which he supports, on behalf of the States members of the Organization of the Islamic Conference, the request for the resumption of tenth emergency special session.

Agenda item 5 (*continued*)

Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory

Report of the Secretary-General (A/ES-10/361)

Draft resolution (A/ES-10/L.20)

Report of the Fifth Committee (A/61/625)

The President: (*spoke in Arabic*): I should like to draw the attention of members to a revised draft resolution, document A/ES-10/L.20/Rev.1, copies of which are now being distributed in the Hall in English only for the time being.

We meet today to consider the report of the Secretary-General contained in document A/ES-10/361, on the implementation of General Assembly resolution ES-10/15 and the establishment of a register of the material and non-material damage caused by the separation wall inside the occupied Palestinian territories, including East Jerusalem and its suburbs.

The Arab-Israeli conflict and successive developments taking place in the Middle East represent

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A. Corrections will be issued after the end of the session in a consolidated corrigendum.

06-66643 (E)

a growing danger that threatens international peace and security. This conflict places before the world historical responsibilities that will determine the future of peace not only in the region, but also in the entire world.

Under these circumstances, we must not turn a blind eye to the deteriorating economic and humanitarian conditions that plague the Palestinian people in the occupied territories, for they require us to take a cooperative stance and provide assistance. Such assistance is vital in order to meet the ever-increasing difficulties of day-to-day life.

It is imperative to accelerate steps towards arriving at solutions based on objective and practical ideas, such as those proposed by the Quartet, calling for the establishment of two States living side by side in security and peace.

The first step in the quest for a solution involves building confidence and ridding oneself of fear, for it is fear that drives both sides to acts of violence and counter-violence. It is essential, therefore, for the international community to support and redouble its efforts to help both sides overcome their fear and misgivings. Just as the General Assembly objected to the building of the separation wall, as recommended by the International Court of Justice in its advisory opinion to the Assembly, it behooves us to be alert to any act that might exacerbate the deteriorating situation, regardless of its origins.

Finally, if dialogue between concerned parties is our main objective and the best approach to peaceful solutions, then barriers clearly do not facilitate dialogue, help to dispel fears or remove material and psychological obstacles. It is for that reason that we must all strive to achieve a just, lasting and comprehensive political settlement to the conflict, based on resolutions of international legitimacy, for that will bring well-being to the Israeli and Palestinian peoples and pave the way to a better future for the Middle East and future generations.

I now give the floor to the observer of Palestine.

Mr. Mansour (Palestine): At the outset, I would like to express our profound gratitude and deep appreciation to the States members of the League of Arab States, the Organization of the Islamic Conference and the Non-Aligned Movement for their valuable support in calling for the reconvening of the tenth emergency special session and for sponsoring the draft resolution, as amended. I would like also to express our thanks and deep appreciation to you, Madam, for reconvening this session.

More than two years ago, in July 2004, the General Assembly met in the resumed tenth emergency special session following the rendering by the International Court of Justice of its advisory opinion on the legal consequences of the construction of a wall in the occupied Palestinian territory. That advisory opinion constituted a comprehensive determination of the applicable rules and principles of international law, including international humanitarian law and human rights law, and of the legal obligations arising from the breach of that law by Israel, the occupying Power, as a result of its construction of a wall in the occupied Palestinian territory, including in and around East Jerusalem. After considering the advisory opinion, and in a serious effort to uphold international law, the Assembly adopted resolution ES-10/15 on 20 July 2004 by an overwhelming majority, in which it, inter alia, demanded that Israel, the occupying Power, comply with its legal obligations, as mentioned in the advisory opinion.

Deplorably, however, Israel, the occupying Power, continues to act with the utmost impunity and in blatant disrespect of the advisory opinion and United Nations resolutions. Israel has not ceased its unlawful construction of the wall in the occupied Palestinian territory, including East Jerusalem. Instead, the occupying Power continues to press on with its unlawful colonization of the Palestinian territory through its construction of the wall and its associated regime, as well as through its settlement campaign, committing countless violations and grave breaches of international law every single day against the Palestinian people as it feverishly attempts to de facto annex even more of the Palestinian land it has brutally occupied and colonized since 1967.

As it continues to construct that monstrous wall, Israel, the occupying Power, continues, inter alia, to confiscate more land and to destroy homes, properties and agricultural fields and crops in the occupied Palestinian territory. Thousands of Palestinians have been displaced from their homes, altering the demography of the territory. The wall and its associated regime, including the apartheid permit system, continue to obstruct the freedom of movement of the Palestinian people and their access and to violate their rights to

work, to health care, to education, to worship and to an adequate standard of living. The Palestinian economy is in tatters, development is nearly impossible and hundreds of thousands of livelihoods have been destroyed as a result of the wall, worsening socio-economic conditions and deepening the humanitarian crisis being faced by the Palestinian people.

The contiguity and integrity of the Palestinian territory is being destroyed, since the construction of the wall and the intricate network of checkpoints, as well as colonial settlements correlated to it, have sliced and carved the territory into several enclaves, some completely walled in, resembling Bantustans. Occupied East Jerusalem has been almost totally isolated from the rest of the occupied Palestinian territory. The beauty of the natural landscape, the environment and natural resources are being ravaged. The very fabric of Palestinian society is being ripped apart by Israel's unlawful construction of the wall, with communities separated and isolated from each other, and some destroyed in their entirety. In sum, vast devastation has been caused and continues to be caused by the construction of the wall and its associated regime in the occupied Palestinian territory, including East Jerusalem, and the situation continues to deteriorate ever more with the passage of time.

Most regrettably, since the rendering of the advisory opinion of the International Court of Justice and the adoption of resolution ES-10/15 by the General Assembly more than two years ago, no concerted action has been taken to compel Israel, the occupying Power, to cease its construction of the wall, to dismantle it and to comply with its legal obligations in that regard. No measures have been taken by Member States to uphold their obligations under international law, as articulated in the advisory opinion, in compliance with resolution ES-10/15, or in compliance with their obligations under common article 1 of the Geneva Conventions to bring an end to the grave breaches that are being committed by Israel, the occupying Power, against the Palestinian people in the occupied Palestinian territory, including East Jerusalem, by its construction of the wall.

As a result of the situation, the damages and hardships being suffered by the Palestinian people as a result of the construction of the wall and its associated regime continue to mount. We thus appeal today to the international community to take the necessary actions to address the situation and to bring an end to that ongoing injustice against the Palestinian people. The Security Council, which up until today has not even attempted to address the crisis of the wall, cannot continue to evade its responsibilities. The Council must take action to bring an end to the crime that is being committed against the Palestinian people — a crime that is making the two-State solution to the Israeli-Palestinian conflict and the vision of a just and dignified peace nearly impossible to achieve.

Indeed, the passage of time is only further compounding and complicating the illegal and grave situation that is being created by the wall in the occupied Palestinian territory, including in particular in and around occupied East Jerusalem. Each day that passes without action exacerbates the situation. Yet the passage of time and the continued creation of such unlawful facts on the ground in no way diminish Israel's responsibility for the illegal actions it is committing and in no way diminish the applicability of international law. The Hague Convention, the Fourth Geneva Convention, the international human rights covenants, the United Nations Charter and the rules and principles enshrined therein, United Nations resolutions and the advisory opinion all remain relevant and are all applicable to the situation in the occupied Palestinian territory.

Moreover, the passage of time does not absolve Member States of their responsibilities to uphold international law and to ensure its respect under all circumstances. It is high time, then, that the international community came together to make the bold decisions needed for bold action to uphold their legal obligations to rectify the unlawful and unjust situation. Israel, the occupying Power, must comply or be compelled to comply with its legal obligations under international law, as determined by the International Court of Justice in its advisory opinion and as demanded by this very Assembly in resolution ES-10/15 and numerous other resolutions adopted thereafter.

Accordingly, Israel must cease all of its violations and grave breaches of international law, and it must thus, inter alia, cease immediately its construction of the wall in the occupied Palestinian territory, including in and around East Jerusalem, dismantle the structure already built therein, repeal or render ineffective all legislative and regulatory acts relating thereto, and make reparation for the damage caused by the construction of the wall.

Bearing all of that in mind, we meet today in this resumed tenth emergency special session to address one aspect of the situation arising from Israel's unlawful construction of the wall, namely, the matter of reparations to be made by Israel, the occupying Power, in conformity with international law, for all of the damages it is causing by its construction of the wall in the occupied Palestinian territory, including East Jerusalem. In that regard, we recall specifically the request made by this Assembly in resolution ES-10/15 for the Secretary-General to establish a register of damage caused to all natural or legal persons concerned in connection with paragraphs 152 and 153 of the advisory opinion.

Pursuant to that request, on 17 October 2006 the Secretary-General submitted a report to the Assembly for its consideration. We express our appreciation to the Secretary-General for the report, which formed the basis of current discussions and the basis of the draft resolution before the Assembly for action on the long-awaited establishment of the United Nations Register of Damage caused by the Construction of the Wall in the Occupied Palestinian Territory. As stated earlier, the damage that is being caused by Israel, the occupying Power, by its construction of the wall in the occupied Palestinian territory, including East Jerusalem, is severe, vast and continuous, and the establishment of the Register of Damage is therefore vital to the fulfilment of the legal obligation to make reparations, including restitution and compensation, for all of the damage that is being caused by the construction of the wall and its associated regime.

In that connection, we must recall the relevant determinations made by the International Court of Justice in its advisory opinion, in particular in paragraphs 152, 153 and 163 (c). The Court's words are precise, clear and indisputable. In paragraph 163 (c) of the *dispositif*, the Court firmly concluded that "Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem" (*A/ES-10/273, p. 53*).

The Court based that determination on the fact that the construction of the wall had unquestionably entailed, inter alia, the requisition and destruction of homes, businesses and agricultural holdings, as well as various other kinds of damage and loss for the Palestinian people. Therefore, in accordance with the rules and principles of international law, Israel is obligated to make reparation for the damage caused and, as explained in paragraph 152 and established in customary law, it must be emphasized that

> "reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed. Restitution in kind, or, if this is not possible, payment of a sum corresponding to the value which a restitution in kind would bear" (*ibid., p. 50*).

Thus the Court determined that

> "Israel is accordingly under an obligation to return the land, orchards, olive groves and other immovable property seized from any natural or legal person for purposes of construction of the wall in the Occupied Palestinian Territory. In the event that such restitution should prove to be materially impossible, Israel has an obligation to compensate the persons in question for the damage suffered. The Court considers that Israel also has an obligation to compensate, in accordance with the applicable rules of international law, all natural or legal persons having suffered any form of material damage as a result of the wall's construction." (*ibid.*)

The ultimate purpose of the Register of Damage is therefore the comprehensive documentation — in the form of registration; verification, including establishing the credibility of the causal link of those claims with the construction of the wall; and assessment of all of the damage that has been, and continues to be, caused by the construction of the wall — for utilization when the time comes for Israel, the occupying Power, to carry out the process of the reparations that it must make in compliance with its legal obligations. Accurate and thorough documentation of the damage caused is a central prerequisite for the genuine granting of reparations, including both restitution and compensation, to the Palestinian people, who have suffered so much and whose rights have been so gravely violated by Israel's construction of the wall in the occupied Palestinian territory, including East Jerusalem.

The draft resolution before the Assembly mandates the establishment of the United Nations Register of Damage and defines the institutional framework required for its establishment and

maintenance, and the responsibilities to be undertaken by the Secretariat, namely the office of the Register of Damage, in this regard. The office of the Register of Damage shall be a subsidiary organ of the General Assembly, functioning under the authority of the Secretary-General, and will be composed of a three-member Board, an Executive Director and a secretariat staff, which will be based on the site of the United Nations Office at Vienna. The draft resolution before the Assembly details the important functions to be assumed by the secretariat, to which I wish briefly to refer here.

In terms of the Board of the office of the Register of Damage, we look forward to an announcement by the Secretary-General regarding the names of the candidates to be appointed to the three-member independent Board in the very near future, following the adoption of this draft resolution. The candidates must be independent, objective, knowledgeable, experienced and of the highest integrity, for the Board is to assume overall responsibility for the establishment and maintenance of the Register of Damage and will also be functioning in a judicial capacity, as it is the Board that will have the ultimate authority to determine the inclusion of damage claims in the Register.

Moreover, the Board will have the important task of determining the eligibility criteria for damage claims as well as damage criteria and the procedure for the registration of claims, which should include, inter alia, documentation of the damage or loss caused, and verification and assessment of value. We stress that it is imperative that, in developing such criteria, the Board be guided by the relevant findings of the advisory opinion, the general principles of international law, and the principles of due process of law. Additionally, the Board should, as necessary, engage the expertise of specialists, including, for example, in land law, agriculture, topography, verification, assessment and compensation, in order to ensure the effectiveness of the overall registration process and of the Register itself.

Here, I wish to refer to the importance that Palestine attaches to the matter of the verification and assessment of damage as an integral part of the registration process. We believe that the verification and assessment of damage are indispensable steps in the process and that it is preferable — indeed, essential — that they be undertaken as soon as possible, given that the end purpose of such a Register of Damage is for reparations to be made, including restitution and compensation, which clearly requires verification and assessment. Therefore, logically and for the sake of efficiency of labour and resources, the verification and assessment of damage caused by the construction of the wall in the occupied Palestinian territories, including East Jerusalem, should be carried out in tandem with the collection of damage claims and not be postponed to a later date, which could complicate both procedures.

That brings me to the role of the secretariat of the office of the Register of Damage. As detailed in the draft resolution, the secretariat, which will be led by an Executive Director — who, we hope, will be speedily appointed — will provide substantive, administrative and technical support for the establishment and maintenance of the Register. This will include such functions as administering a public-awareness programme to inform the Palestinian public about the Register of Damage — about its purpose, the requirements for filing a damage claim and the procedures for filling out and submitting claim forms — as well as receiving and processing all of the damage claims for submission through the Executive Director to the Board for inclusion in the Register, and aggregating and maintaining the records registered in the Register of Damage in both hard-copy and electronic forms.

In that regard, we stress our belief that the process of registration for which the secretariat will be responsible — beginning with the awareness programme and outreach and throughout the process of receiving, verifying and assessing claims — requires a field presence in the occupied Palestinian territory, including East Jerusalem, in order effectively to be carried out.

In that connection, the cooperation of the United Nations agencies and offices functioning in the occupied Palestinian territory, including East Jerusalem, is vital. Those agencies and offices, including, for example, the Office for the Coordination of Humanitarian Affairs (OCHA), the Office of the United Nations Special Coordinator (UNSCO), the United Nations Development Programme (UNDP) and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), have extensive experience on the ground and detailed knowledge about the wall, its route and its impact on

the Palestinian people in various fields, including with regard to the issue of damages and financial and other losses inflicted by it. They should therefore lend their support and expertise to the office of the Register of Damage as needed. Such cooperation would not only facilitate the work of the office of the Register of Damage, but it would also clearly be cost-effective for the United Nations to utilize its resources already present on the ground.

At the same time, we express our strong hope that Israel, the occupying Power, will, as called for in the draft resolution, cooperate with the office of the Register of Damage. Israel should respect the Charter and the Convention on the Privileges and Immunities of the United Nations, and it should not in any way impede or obstruct the work of the office of the Register of Damage or the movement and access of its staff. For our part, the Palestinian Authority stands ready to cooperate with the office of the Register of Damage to the fullest extent and will encourage the relevant Palestinian institutions to do so as well.

The Register of Damage should remain open for registration for the duration of the existence of the wall in the occupied Palestinian territory, including in and around East Jerusalem. Similarly, the office of the Register of Damage should remain active for the duration of the registration process and should carry out the functions and directives ascribed to it in the draft resolution and any such additional functions as may be deemed necessary and appropriate by the board or by the General Assembly. Indeed, as long as the wall exists, it is unquestionable that the Palestinian people will continue to suffer from the damages and losses it is inflicting upon them. The Register must thus remain in existence until the construction of the wall has totally ceased, the wall has been dismantled and reparations have been properly made by Israel, the occupying Power, in conformity with the rules and principles of international law and due process of law, for all of the damage and loss caused by the construction of the wall in the occupied Palestinian territory, including East Jerusalem.

Before concluding, I wish to emphasize the fact that the making of reparations — in the form of restitution and compensation — does not absolve Israel, the occupying Power, of its legal obligations to cease its construction of the wall and the associated regime, to dismantle the wall and to repeal or render ineffective all legislative and regulatory acts related thereto. Israel must terminate its breaches of international law, including international humanitarian law — particularly the Fourth Geneva Convention — and human rights law. Israel cannot continue to act with impunity, showing total and flagrant disrespect for international law, United Nations resolutions and the advisory opinion of the International Court of Justice. The international community must hold Israel accountable for its illegal actions in the occupied Palestinian territory, including East Jerusalem, and compel it to bring all such actions to an immediate end.

It is our deepest hope that the draft resolution before the General Assembly today will be adopted by an overwhelming majority. It deserves the strong support of Member States so that the United Nations Register of Damage caused by the Construction of the Wall in the Occupied Palestinian Territory can be established. It is an extremely important undertaking, necessary for the fulfilment of the legal obligation that reparations be made to the Palestinian people, who are suffering greatly as a result of the construction of the wall and are pleading with the international community for help to put an end to this grave injustice. Moreover, the establishment of the Register of Damage is in line with the permanent responsibility of the United Nations towards the question of Palestine until it is resolved in all its aspects in accordance with international law. The crisis of the wall in the occupied Palestinian territory, including East Jerusalem, has undoubtedly become one of the core issues of the question of Palestine that must be justly resolved in order for our long-held aspirations for a just and lasting peace to become a reality.

Mrs. Núñez Mordoche (Cuba) (*spoke in Spanish*): I have the honour to address the General Assembly on behalf of the Non-Aligned Movement.

The Movement welcomes the convening of this resumed tenth emergency special session to give effect to the request made by the Assembly in 2004 to establish a Register of Damage done by Israel as a consequence of its construction of the separation wall.

The Non-Aligned Movement has clearly stated on several occasions its position of principle on the illegal nature of the construction of the wall. The wall is illegal and must be dismantled without further delay. Israel cannot be allowed to continue with its construction.

Despite the opposition of the international community, Israel is continuing to build the wall in the occupied Palestinian territory, including in and around East Jerusalem. Those actions are in flagrant defiance of the advisory opinion of the International Court of Justice and they also violate resolution ES-10/15 of 20 July 2004, both of which reaffirm the illegality of the construction of the separation wall in the West Bank and East Jerusalem.

Forty-two per cent of the wall has been completed, extending 336 kilometres, and 102 kilometres are currently under construction. More than 2 million Palestinians living east of the wall will remain isolated from East Jerusalem, and the more than 230,000 who live in East Jerusalem will remain isolated from the rest of the West Bank. Israel's construction of the wall is causing serious damage and losses, adding to the suffering of the Palestinian people, who have already suffered so much.

Once again, the Non-Aligned Movement demands that Israel scrupulously respect its legal obligations pursuant to the advisory opinion and that it fully implement resolution ES-10/15. We reiterate our call to Member States and the United Nations to fulfil their obligations in that regard.

The Non-Aligned Movement would like to recall, in particular, the advisory opinion of the International Court of Justice that Israel has an obligation to terminate its breaches of international law, to cease the construction of the wall, to dismantle the structure already built, to repeal or render ineffective all legislative and regulatory acts relating to the wall and to make reparation for all damage caused by its construction.

Until Israel fulfils its legal obligations, the Non-Aligned Movement urges Member States to take steps through, inter alia, legislation at the collective, regional and national level to prevent any products of the illegal Israeli settlements from entering their markets, consistent with their obligations under international treaties, as well as to deny entry to Israeli settlers and to impose sanctions against companies and entities involved in building the wall and in carrying out other illegal activities in the occupied Palestinian territory, including East Jerusalem.

The Non-Aligned Movement reiterates that all States have an obligation not to recognize the illegal situation resulting from the construction of the wall and not to provide aid or assistance that would maintain the situation created by the construction. Furthermore, all States parties to the Fourth Geneva Convention have an additional obligation to ensure that Israel complies with the Convention.

For its part, the United Nations, particularly the General Assembly and the Security Council, must consider what other measures are needed to put an end to the illegal situation resulting from the construction of the wall and the associated regime, taking due account of the advisory opinion. The Non-Aligned Movement believes that if the construction of the wall is not halted and reversed, it will not be possible to achieve a two-State solution to the conflict.

Mr. Wenaweser (Liechtenstein), Vice-President, took the Chair.

As rightly expressed in the draft resolution before us today, the Register of Damage will help to make restitution and compensation to the Palestinian people for the losses and damages caused by the construction of the wall, in accordance with the rules and principles of international law. The Register of Damage must remain open for the registration of claims arising from the wall for the duration of its existence in the occupied Palestinian territory, including in and around East Jerusalem. The Register must function effectively and must use efficiently the resources allocated to it by Member States. All verifiable and quantifiable claims must be duly registered, and the losses and damages caused by the wall must be assessed with all due rigour.

We hope that the office of the Register of Damage, as a subsidiary organ of the General Assembly, will productively carry out its work and will make an effective contribution to ensuring compliance with the provisions of the advisory opinion of the International Court of Justice.

I should like to conclude by calling on all Member States, on behalf of the Non-Aligned Movement, to lend their valuable support to the draft resolution contained in document A/ES-10/L.20/Rev.1.

Prince Zeid Ra'ad Zeid Al-Hussein (Jordan): On 20 July 2004, the General Assembly, in its resolution ES-10/15, requested the Secretary-General to "establish a register of damage caused to all natural or legal persons concerned in connection with paragraphs 152 and 153 of the advisory opinion [then

just issued by the International Court of Justice]". The Secretary-General, in his report contained in document A/ES-10/361, and pursuant to that resolution, provides us with the institutional framework recommended for the Register of Damage and suggests that a further resolution be adopted in that connection.

My delegation warmly welcomes the Secretary-General's report and generally finds favour with the thrust of the points presented in it. We believe that a Register of Damage must immediately be established in keeping with the Court's findings, as articulated in paragraphs 152 and 153 of the advisory opinion. And we also feel that it is important that our position be well understood.

As we made abundantly clear in the oral pleadings before the Court on 24 February 2004, we believe that, with the obvious exception of the Palestinians themselves — whose livelihoods and lives and the future of an independent, viable Palestinian State are all being compromised by the sweeping penetrations that the wall makes into Palestinian territory — it is we, the Jordanians, who could be the next-most-affected party owing to Israel's decision to place the wall where it has and where it intends to place it in the near future. I will not revisit those points today to explain why that is, except to say that the geographic proximity and the potential for movement of the peoples displaced by the wall and its regulatory controls pose a direct threat to us.

Having said that we view the Secretary-General's report favourably, I wish to make the following, more specific remarks. In paragraph 4 of the Secretary-General's report, it is argued that the registration of damage would be

> "a technical, fact-finding process of listing or recording the fact and type of the damage caused as a result of the construction of the wall. ... The act of registration of damage, as such, would not entail an evaluation or an assessment of the loss or damage claimed".

Certainly, that would be our hope. However, later, in paragraph 7, we note that the Secretary-General admits that the Board of the Register would determine, inter alia, "eligibility criteria", establish the "procedure of registration", including defining the objective criteria to be used — one assumes that those are the eligibility criteria just mentioned — and have ultimate authority "in determining the inclusion of damage claims in the Register". Moreover, in the next paragraph, the Secretary-General stresses that Board members must be chosen for "their integrity, experience and expertise in such areas as law, accounting, loss adjustment, assessment of environmental damage and engineering".

It is clear that, while the act of registration of damage does not entail an evaluation or an assessment of the loss or damage claimed, as stated in the Secretary-General's report, the Board will nevertheless have to undertake evaluations on issues such as eligibility or title, for which specific qualifications are presented as necessary for its members. Their decisions could therefore be of some significance at a later date. And, in view of the Secretary-General's recommendation that the office of the Register be a subsidiary organ of the General Assembly, we believe that the Assembly should be required to endorse such appointments.

Secondly, we believe it absolutely essential that the Board consider prima facie evidence of title to property as sufficient for the purpose of then establishing the validity of the damage claim. The general guidance offered in paragraph 14 is excellent, while also requiring, in our view, the specificity that we propose.

Thirdly, we agree wholeheartedly with the Secretary-General's suggestion on verification and believe that that must, of course, take place subsequent to the submission of claims.

We would therefore support the inclusion of the points that I just mentioned in any draft resolution, not only because we respect the decisions and opinions of the principal judicial organ of the United Nations, but also because our region needs to see justice where Palestine is concerned.

The Court's opinion was and still is, quite simply, law. The Court's opinion laid bare that Israel's construction of the wall in the occupied Palestinian territories, including East Jerusalem, is in violation of Israel's international obligations, including its legal obligations *erga omnes*. The Court did not accept Israel's claims that legal justifications exist for its actions, notwithstanding the creative legal terms used to describe those territories.

That is significant to us, because Israel has long had the habit of denigrating the Green Line and questioning what once lay beyond it — to such an extreme that no one in Israel now seems to know where the country's eastern boundary lies, or if it actually has

one. Only days ago, Israel's Minister of Education ignited an uproar inside Israel by instructing that all the maps in new editions of Israeli textbooks show the Green Line — obvious to us here today, but bewildering and threatening to many Israelis.

However, earlier, in her statement before the General Assembly on 20 September 2006, Israel's Foreign Minister, Tzipi Livni, expressed Israel's more familiar exception to the Green Line by stating, in relation to the question of a common boundary, "There are those who believe that if only we could turn back the hands of time to 1967 all would be resolved. But, in 1967 there was no Palestinian State" (*A/61/PV.13, p. 45*). That last point may be true, but whether there was or was not a Palestinian State in 1967 does not change the basic fact that Israel subsequently occupied territory that did not belong to it and had not belonged to it.

The significance of the Green Line cannot therefore be underappreciated. Sir Arthur Watts, Q.C., Counsel for Jordan, in his pleading before the Court on 24 February 2004, explained this most clearly:

> "It [the Green Line] is, in origin, the Armistice Demarcation Line, laid down in article V of the Jordan-Israel General Armistice of 3 April 1949. But it was given additional significance by Security Council Resolution 242 (1967), which affirmed, unanimously, the principle of Israel's withdrawal of its armed forces 'from territories occupied in the recent conflict' — and that meant, and could only mean, territories on the non-Israeli side of the Green Line. Thus the Green Line is the starting line from which is measured the extent of Israel's occupation of non-Israeli territory; originating in 1949 as an armistice line, it became in 1967 the line to the Israeli side of which Israel had to withdraw its forces, and on the non-Israeli side of which territory was 'occupied' by Israel." *(International Court of Justice document CR 2004/3)*

Israel's virtual dismissal of the Green Line over the years is what has led many of us to interpret the route chosen for the separation wall as an attempt by Israel to carve out for itself, unilaterally, its eastern boundary. As the Court found in its advisory opinion, the law requires that Israel abide by its international legal obligations, put an end to its violations related to the construction of the separation wall on occupied Palestinian territory, and immediately restore the status quo ante by removing the portions of the wall already constructed on that territory and repealing the relevant legislation and administrative procedures. Israel must also restore to the Palestinian people all their legitimate rights; it must return all confiscated property to its rightful owners; and it must compensate all those who have been harmed for the losses incurred as a result of its illegal actions. Moreover, the law stipulates that the international community must not support Israel in the violation of its obligations *erga omnes* under international law, such as respect for the right of self-determination and for international humanitarian law.

As this is probably the last time I will be addressing the General Assembly as Permanent Representative, I wish to complete this statement by placing my own personal signature on it — for which I bear sole responsibility — and for which I beg the Assembly's indulgence.

Is it not wrong that Israel continues to enforce its occupation of Arab and particularly Palestinian territories, stretching now to four decades, consigning our Arab neighbours to an oppressive and desperate existence? Is it not wrong for a people who themselves have suffered so greatly for centuries to maintain an occupation whose effect is to degrade another people, a proud people — in many respects, the very best the Arab world has to offer. Is it not wrong for Israel to visit violence on civilian Arab populations in the way that it has, and is it not wrong for Arab groups to be doing likewise to civilians in Israel?

Is it not also wrong for many of us in the Arab world and beyond to continue to deny or downplay the Holocaust, an event that caused immense pain and suffering to the Jewish people, the Roma and others? Can we not see this, too? Can we not also see we are not perfect in our virtues either?

The President returned to the Chair.

Can we not see in all of this, in all of these crises swamping our region, parallels to the game of chess, where play now slips into patterns so sickening in their predictability; where the middle game will be reached soon enough; and where all the crises of our region and just beyond it eventually fold into one another, creating the greatest political emergency of our time, and pitching our region towards the cusp of a war unlike any we have witnessed since 1945. Can we not see this?

I pray we will be able to depart from patterns of old, as peace will come only when we see justice done, when we see justice eclipse political expediency for all the peoples of our region. It is justice, the law and a sense of morality which will provide for something better. To borrow from Daniel O'Connell's dictum, "Nothing [can be] politically right which is morally wrong".

The President *(spoke in Arabic)*: I give the floor to the representative of Iraq to introduce draft resolution A/ES-10/L.20/Rev.1.

Mr. Al Bayati (Iraq) *(spoke in Arabic)*: It is my pleasure, on behalf of the Arab Group, to introduce draft resolution A/ES-10/L.20 concerning the establishment of the United Nations Register of Damage caused by the Construction of the Wall in the Occupied Palestinian Territory and in East Jerusalem and surrounding areas. The draft resolution is also sponsored by the Non-Aligned Movement.

In its preamble, the draft resolution recalls the conclusion reached in the advisory opinion of the International Court of Justice that Israel is under an obligation to provide reparations for all damage caused by the construction of the wall and that there is a need to document all the damage resulting from its construction.

The draft resolution reaffirms General Assembly resolution ES-10/15 concerning the wall and the ongoing responsibility of the United Nations towards the question of Palestine until it is resolved in all its aspects.

In the operative paragraphs of the draft resolution, the General Assembly establishes the United Nations Register of Damage caused by the Construction of the Wall in the Occupied Palestinian Territory to serve as a comprehensive record of the damage caused to all natural and legal persons concerned as a result of the construction of the wall by Israel.

Operative paragraphs 3 through 12 deal with the manner in which the Register will be established, its competence and its methods of operation.

In the draft resolution, the General Assembly calls on the Secretary-General to instruct the United Nations agencies and offices working in the occupied Palestinian territories to lend their support and experience to the office of the Register of Damage, upon its request, so as to facilitate its work.

The General Assembly also requests the Secretary-General to provide the necessary staff and facilities and to make appropriate arrangements to provide the funds required for the implementation of the draft resolution.

It is our hope that the draft resolution will garner the Assembly's support and approval.

Mr. Gillerman (Israel): Madam President, before I make my statement, allow me a personal word.

We have just heard what is probably the last statement to be made by Prince Zeid in his capacity as Permanent Representative of Jordan. It is not often that an Israeli representative has the opportunity and feels the need to pay tribute to a representative of an Arab nation. I wish we had more chances to do that. But I feel that in his remarks, and especially his final personal words, Prince Zeid has demonstrated yet again how important it is for the Arab world to have a representative and a nation that can voice the voice of reason.

Prince Zeid and I have not always agreed with each other; he has been very critical and has represented his country with great vigour and certainty. But, as he has done today, he has throughout his term here truly represented the best the Arab world, and indeed the world, has to offer: a mixture of statesmanship, honour, integrity, justice and fairness.

I believe that all of us in this Hall, and all of us in the world, owe him a great debt of gratitude for his service to this Organization in so many capacities and over so many years. I feel that I need to say this because it is a ray of light and a great sign of hope that, unfortunately, we do not see enough of — and which I wish will mark the beginning of many more.

I would like to begin by clarifying the agenda of the Assembly today. We are not here today to discuss a "Register of Damage", as the Secretary-General's report (A/ES-10/361) refers to this mechanism, because it is not a register of damage. There is already a register of damage on the ground in Israel, fully operational and able to provide compensation to Palestinians adversely impacted by the security fence.

This, rather, is a register that does damage, a damaging register. It is a register that does damage to the credibility of this Assembly by exploiting the automatic majority vote. It is a register that does damage to the legitimacy of this Organization by abusing procedure. It is a register that does damage to the prospects of direct dialogue by circumventing

bilateral negotiations, the only forum that can resolve differences in our region.

This Register, despite the perception of its being yet another achievement for the Palestinian observer, who spoke at such great length — literally — about it, cannot help the Palestinian people. Let me make it very clear: no Palestinian impacted by the security fence will be helped or assisted by this mechanism.

The security fence Israel has built is the direct consequence of Palestinian terror. Were it not for Palestinian terror, there would be no need for a security fence. The Palestinian strategy of encouraging terrorism is injurious to Israel and its citizens and destructive to the Palestinians' own interests. But the fence can stop the terrorists where the Palestinian Authority does not. Thousands of Israeli lives — those of Jews, Christians and Muslims — have been saved by the security fence, which has been operational in different areas for some time.

The numbers speak entirely for themselves. A similar fence in Gaza, agreed as part of the Israeli-Palestinian agreements, which garnered no dissent from the United Nations, has successfully prevented the infiltration of terrorists into Israel. On the other hand, in a mere three-year span, 135 suicide bombers from the West Bank carried out 121 terrorist attacks in Israel. Since 2000, over 1,000 Israelis have been murdered by Palestinian terrorists. This fence is absolutely necessary.

It is not just Israel that knows the effectiveness of the security fence. Here I will cite two recent statements echoing this reality. The first is from French Foreign Minister Philippe Douste-Blazy, who during an interview said,

> "I have significantly evolved on the matter of the separation fence. Although the wall was a moral and ethical problem for me, when I realized terror attacks were reduced by 80 per cent in the areas where the wall was erected, I understood I did not have the right to think that way".

The second is from Ramadan Shalah, the murderous leader of Islamic Jihad, who told Al-Manar Television that "The separation fence is an obstacle to the resistance, and if it were not there the situation would be entirely different" — meaning that Palestinian terror could continue undeterred.

As I alluded to earlier, a mechanism already exists in Israel for Palestinians to register their claims for compensation with regard to the building of the security fence. Any Palestinian landowners can file objections to the use of their land. To date, some 140 cases have already been reviewed, and 6,832,000 Israeli shekels, more than $1.5 million, has been paid by Israel to Palestinian complainants.

Moreover, Israel's Supreme Court has heard a number of cases, brought by Palestinians and Israelis alike, to alter the route of the fence. In some situations, the Court has ruled that the route of the fence should be changed, if it did not negate security concerns. That is the clearest proof that Israel's building of the fence is solely to protect its citizens, and that the fence is not a border.

The mere fact that the court allows such petitions to be submitted is yet another testament to the vibrant democracy in Israel and to our willingness to admit that Israel's Government is not above criticism. The process includes giving every affected individual, Palestinian or Israeli, the right to petition Israel's Supreme Court, and numerous such petitions are pending. Indeed, Israel's Supreme Court is one of the few courts in the world, and certainly the only one in the region, that vigorously applies international law to examine the domestic actions of its own Government. It is a fiercely independent judicial institution that has earned the respect of jurists and lay people around the world and it is probably the only court in the entire Middle East in which any Arab or Palestinian can challenge his own Government's actions and be assured of justice, rather than be jailed or even beheaded. Let an Arab or a Palestinian try to do that in Damascus, Tehran or Ramallah.

The route of the barrier, as always intended, will be decided according to security considerations, specifically, to the manner that best protects Israelis from Palestinian terror. The fence is reversible. It is entirely reversible. The taking of human lives by terror is completely irreversible.

The Palestinian observer, in his long litany, has lamented the fact that the security fence has ripped apart "the fabric of life of Palestinian society". Typically, we have not heard from him one single word about Palestinian terrorists ripping apart whole families and human bodies by the unique contribution to the world of their invention of suicide bombings — not

one single word — ripping apart the fabric of Palestinian life, yes, sadly; ripping apart bodies and human lives, not a single word, tragically. This security fence sprang not from a desire to beautify the Judean hills, but from a true need to preserve the sanctity of human life.

Although this is an open forum for the entire General Assembly, I must once again direct my concluding comments particularly to my esteemed Palestinian colleague and the people he represents here in this world body. Israel was willing to provide compensation to the Palestinians affected by the fence, but instead you chose to ask the United Nations for its help. Instead of helping your people and receiving direct assistance, you chose to put another political mechanism in place that does not and will not bring any relief to your people.

Indeed, it is ever frustrating, in this instance as in so many others, to see how you and your Government choose grandstanding over effectiveness and bravado over substance — an ongoing ritual of which your people are always the victims. However many times you repeat the sad mantra that Israel is the occupying Power — knowing full well that Israel left Gaza a year and a half ago, allowing you to turn it into a heaven, whereas you have chosen to make it a hell, both for your own people and for us — you cannot hide the fact that the real purpose, for all of us, is to narrow the inconceivable gap between the real world, where tangible things happen, and this Assembly, where the farce of the Palestinian litany takes over. Today, once more, we have failed to do so.

Indeed, where is the real emergency in this emergency special session? Where is the real emergency, and where is the real world? The real emergency and the real world is where a conference on Holocaust denial is being held by a State member of this Assembly, hosted by a ranting President who denies the Holocaust while preparing the next one. The real world and the real emergency is where, only yesterday in Rafah, we saw yet another manifestation of the chaos in the Palestinian Authority. The real emergency and the real world is where Palestinians are unable to form a Government that will meet the requirements of the international community as expressed by the Quartet and the Security Council.

In all honesty, should not all of us in this Hall be more concerned by those events, rather than wasting time, money, resources and energy on futile resolutions that will not improve the life of a single Palestinian? In this test of whether to do the right thing or to repeat the sad old mantras, you have once again failed your people and let us all down.

Sadly, this is a repeated pattern of behaviour both on the ground, where direct bilateral conversations are meant to be taking place, and here at the United Nations. Rather than shouldering your national responsibilities when it comes to ending the terror and violence against Israel on the ground, you prefer to see Israel sit on trial in New York, in another misrepresented emergency special session of the General Assembly, reconvened on account of an automatic majority — indeed, an immoral automatic majority. No material gain can come to your people from these theatrics — only General Assembly resolutions; only costly, totally inefficient and unnecessary United Nations mechanisms.

Indeed, the Secretary-General, in his final remarks on the Middle East to the Security Council earlier this week, echoed that sentiment:

> "Some may feel satisfaction at repeatedly passing General Assembly resolutions or holding conferences that condemn Israel's behaviour. But one should also ask whether such steps bring any tangible relief or benefit to the Palestinians." (*S/PV.5584, p. 4*)

Those are the Secretary-General's words, not mine.

I hope that the member States of this body ask themselves that very question, as well as asking what they wish to achieve when they decide to pump out political resolutions against Israel in this Assembly, as they are attempting to do yet again today.

I hope that they will ask themselves that question and that the next time the Palestinian observer and his allies ask the Assembly to resume the emergency special session — which in itself is an abuse of United Nations institutional procedure and a mockery of the true agenda of Uniting for Peace — that question will be answered in the right terms.

I hope that the member States of this body ask themselves that question when they have to fund yet another mechanism, paid for by the tax money of their citizens — a mechanism that will perpetuate, not resolve, the Palestinian issue. Especially at a time when the United Nations is undergoing a process of

reform, it is counterproductive — in fact, disingenuous — to demand the financing of such costly and duplicative mechanisms. The annual cost of the Register in this draft resolution would be far more than that of the suggested framework outlined in the Secretary-General's report. Would not that money be better spent elsewhere?

And I hope that Member States are aware of the millions of dollars that are already being spent each year by the United Nations to advance the so-called interests of the Palestinians. More than 20 resolutions — most of them redundant, obsolete and one-sided — are adopted by the Assembly annually. Other special bodies and committees, including a whole division of the Secretariat itself, are largely manipulated to advocate the Palestinian cause rather than peace.

The real barrier between Israelis and Palestinians is not the security fence, but the terrorism that makes it necessary. Were it not for that terrorism, a viable two-State solution would have emerged long ago. Palestinian terrorism seeks not the end of occupation, but the end of Israel. Recent statements made by the Hamas Palestinian leadership tell us that much. As long as the Assembly averts its gaze from that stark reality, it does the cause of peace a great disservice. The people in the region deserve — and, in fact, demand — better.

Tonight in Israel, as I speak, the people of Israel are lighting the first candle in the festival of Hanukkah, the festival of lights. The one request and the one prayer that I have, even here, even today, even at this moment, perhaps more than ever, is: at long last, let there be light.

Ms. Lintonen (Finland): I have the honour to speak on behalf of the European Union. The following countries — Bulgaria, Romania, Turkey, Croatia, the former Yugoslav Republic of Macedonia, Albania, Bosnia and Herzegovina, Montenegro, Serbia, Iceland, Liechtenstein, Norway, Ukraine and Moldova — align themselves with this statement.

The European Union reiterates that the construction of the separation barrier in the occupied Palestinian territory, including in and around East Jerusalem, is contrary to international law. The construction of the barrier in the occupied Palestinian territory is having a detrimental effect on the lives of Palestinians and jeopardizes a final-status agreement. We reiterate our call on Israel to desist from any action that threatens the viability of an agreed two-State solution.

The European Union reaffirms its intention to actively contribute to the work of the Quartet to get the Middle East peace process urgently back on track in order to make progress towards a comprehensive settlement on the basis of the Road Map, relevant Security Council resolutions and the commitments made at Sharm el-Sheikh in 2005. This should be done in close cooperation with Arab partners. The European Union welcomes the ceasefire in Gaza that President Abbas for the Palestinian factions and Prime Minister Olmert have committed themselves to. We encourage the parties to proceed to further confidence-building measures and to the resumption of a credible political process.

The European Union reaffirms that it will not recognize any change to the pre-1967 borders other than those agreed by both parties. We remain committed to the two-State solution as laid out in the Road Map and agreed between the parties, which would result in a viable, contiguous, sovereign and independent Palestinian State existing side by side in peace with Israel living within recognized and secure borders.

In July 2004, the European Union voted in favour of resolution ES-10/15, on the "Advisory opinion of the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, including in and around East Jerusalem". We support the establishment of a credible Register which is based on the Secretary-General's report.

Mr. Kumalo (South Africa): My delegation wishes to associate itself with, and fully supports, the statement delivered by the representative of Cuba on behalf of the Non-Aligned Movement.

Over two years ago, after a request from the Assembly for an advisory opinion, the International Court of Justice declared that the construction of the wall being built by Israel is contrary to international law and that Israel is under an obligation to cease construction of the wall and to make reparations for all damage caused by the construction of the wall. Paragraph 152 of the Court's decision stipulated that

> "'reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed'". (*A/ES-10/273, p. 50*)

The Court further declared, in paragraph 153, that

> "Israel also has an obligation to compensate, in accordance with the applicable rules of international law, all natural or legal persons having suffered any form of material damage as a result of the wall's construction". (*Ibid.*)

Convening after the decision of the International Court of Justice, the General Assembly, in its resolution ES-10/15, of 20 July 2004, acknowledged the Court's advisory opinion. The General Assembly demanded that Israel comply with its legal obligations as set out in the advisory opinion and mandated the Secretary-General to set up a register of damages brought about by the construction of the wall.

Member States were guided in those actions by our recognition that the United Nations has a permanent responsibility towards the question of Palestine until it is resolved in its entirety on the basis of the Charter and relevant resolutions of the United Nations, international law and international humanitarian law.

Pursuant to the mandate of the Assembly, the Secretary-General has presented to us a report (A/ES-10/361) on the Register of Damage. We welcome the Secretary-General's report and urge the Assembly to adopt the draft resolution before us in document A/ES-10/L.20/Rev.1 endorsing its recommendations. The Register of Damage will serve as clear documented evidence of the loss suffered by innocent civilians caused by the construction of the wall.

The Register of Damage should provide comprehensive documentation, in the form of registration, verification and assessment, of all the damage that has been and continues to be caused by the construction of the wall. Through a comprehensive register of the nature proposed we will be able to ascertain the damage caused and the reparations required.

My delegation believes that, in order for the Register to be objective, it will be necessary for its board to be selected on the basis of independence, objectivity and impartiality, and for due regard to be paid to the geographical diversity of the members' nationalities. Furthermore we support the contention that the board should be selected by the General Assembly on the basis of candidates nominated by the Secretary-General.

Since the decision of the International Court of Justice, Israel has pressed ahead with the construction of the wall and the expansion of settlements, in clear contravention of international law. We are particularly concerned that those actions — that is, the illegal construction of the wall and the illegal expansion of the settlements — are an attempt by the Israeli Government to predetermine final-status issues such as the future of Jerusalem. In his presentation to the General Assembly on 19 October 2006 (see A/C.3/61/SR.24), the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1997, Mr. John Dugard, noted that Israel continues its policy of the "de-Palestinization of Jerusalem". The wall is constructed in such a way as to place about a quarter of East Jerusalem's Palestinian population of 230,000 in the West Bank. Mr. Dugard reports that that action of the Israeli Government is designed to ensure that Jerusalem assumes a predominantly Jewish character, which will undermine Palestinian claims to Jerusalem as the capital of an independent Palestinian State.

The inaction by the international community and the United Nations on the separation wall and settlements over the past year has had the effect of allowing Israel to solidify its occupation of East Jerusalem and the rest of the West Bank, further altering the demographic facts on the ground. The construction of settlements, the wall and its associated regime have gravely impacted the economic and social conditions of the Palestinian people, resulting in the violation of their most basic human rights and exacerbating the humanitarian crisis. Already, the wall has resulted in the confiscation and destruction of homes and restrictions on freedom of movement, and impeded access to basic necessities, such as water.

The international community's failure to provide the Palestinian Authority with adequate assistance to enable it to exert its authority and to establish law and order in the occupied territories has only strengthened the hand of extremists who feed off the anger of a people living under military occupation.

South Africa reiterates the call for strict compliance with the International Court of Justice's advisory opinion and for the immediate and full implementation of the Secretary-General's mandate to establish a registry of damages caused by the construction of the wall.

The United Nations cannot allow the current situation — in which one party enjoys more basic rights and freedoms than the other — to continue.

There should be equality and protection before the law and the parties should respect resolutions of the United Nations and honour their commitments under international agreements. In particular, both sides have a duty to bring an end to all senseless acts of terrorism and violence directed against civilians and to work towards reconciliation and peace.

Mr. Almansoor (Bahrain) (*spoke in Arabic*): My delegation associates itself with the statement made by the representative of Cuba on behalf of the Non-Aligned Movement.

The General Assembly is meeting today in its tenth emergency special session to consider the establishment of the Register of Damage wrought against all natural or legal persons under paragraphs 152 and 153 of the advisory opinion of the International Court of Justice. The General Assembly requested the establishment of the Register in its resolution ES-10/15 of 2 August 2004.

The establishment of the register is indeed urgently needed to document the damage that continues to be caused by the construction of the separation wall in the occupied Palestinian territories. At their fourteenth summit, held in Havana, Cuba, from 11 to 16 September 2006, the heads of State and Government of the Non-Aligned Movement expressed their disappointment at the lack of any progress towards the establishment of the Register at that time.

We thank the Secretary-General for his report, contained in document A/ES-10/361, and for his vision of the institutional framework necessary to established the Register. The Register will document the damage caused by the construction of the wall, the destruction of property or its seizure in circumstances that run counter to the provisions of articles 46 and 52 of the 1907 Hague Regulations, as well as of article 53 of the 1949 Fourth Geneva Convention. That was reiterated in paragraph 132 of the advisory opinion of the International Court of Justice on the legal consequences of the construction of the wall, as contained in document A/ES-10/273.

We express our appreciation to the Secretary-General for his actions to honour his commitment to establish the Register and to take the necessary steps, pursuant to paragraphs 133 and 153 of the advisory opinion, to identify such damage as the basis of its work, as noted by the Secretary-General in his report.

The separation wall would seem to represent an extension of the settler project and yet another facet of the expropriation of Palestinian territories and their dismemberment into isolated pockets and cantons. Its consequences and effects touch every aspect of life for the Palestinians. The separation wall has already isolated thousands of Palestinian households. It will have a devastating effect on education; students will be unable to reach their schools, which will be destroyed. It will also result in increased social devastation, particularly to health and other services. It will deprive the Palestinians of the right to water, damage the Palestinian environment and harm Palestinian agriculture. It will destroy and isolate historical and archaeological sites. It will lead to the annexation of many historical and archaeological Palestinian sites and degrade the importance of certain tourist destinations, including the cities of Bethlehem, Jerusalem and Hebron. It will affect the future of environmental and rural tourism in Palestine because many relevant sites — such as Al-Dhahab, north of Jenin — will end up to its west. As I said, it will also damage numerous archaeological sites, as noted by the Gaza Centre for Rights and Law.

It is clear that Israel's objective in its continued construction of the separation wall is to devour more of the occupied Palestinian territories, in blatant violation of the Fourth Geneva Convention. Ms. Catherine Bertini, the Secretary-General's Personal Humanitarian Envoy, in her report contained in document A/58/88, described the wall as a "new form of closure" that would have a direct impact on the lives of more than 200,000 Palestinians in the West Bank, preventing their access to clean drinking water, rendering agricultural lands fallow, and hindering economic, social and educational services.

According to the Secretary-General's report, the construction of the wall will block the achievement of the desired outcome of the road map. It cannot be justified by any security claims. In his report, the Secretary-General notes that it could undermine the long-term prospects for peace and make it more difficult to establish a viable, contiguous and independent Palestinian State.

In his report of 19 September 2006, the Secretary-General states that the

> "[t]he pace of construction of the barrier in the West Bank accelerated during the reporting

period. Land expropriation orders were issued by the Government of Israel to allow the extension of the barrier around Jerusalem eastward so as to envelop the settlement of Ma'ale Adumim" (*A/61/355, para. 15*).

In its advisory opinion, the International Court of Justice affirmed the illegal character of the Israeli settlements and of the separation wall. The Mitchell Committee report of 20 May 2001 called for freezing settlement activity in order to build confidence.

Despite all that, Israel perseveres in its expansionist settlement policy and in the establishment of checkpoints and bypass roads in clear contravention of the provisions of the Road Map concerning the dismantlement of settlement outposts and of United Nations resolutions, including Security Council resolution 446 (1979), which determined that these settlements have no legal validity.

The construction of the separation wall has resulted in the seizure of further Palestinian lands. The Economic and Social Council has reported that Israel's expropriation of Palestinian land continued into September 2005, when it seized more than 4,100 acres for the establishment of the wall, which Israel continues to build following the new route agreed to by its Government in February 2005.

The report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/61/500) refers in paragraph 31 to the continuation of Israel's policy aimed at creating a segregation zone in the West Bank, cutting through the western part of the West Bank and running from north to south, taking the most fertile agricultural lands, isolating Palestinian communities in enclaves, undermining the territorial contiguity of the Palestinian villages and cities, and confiscating natural resources.

The Special Rapporteur on the situation of human rights in the occupied Palestinian territories reaffirms that there is no way that Israel can justify building the wall as a security measure. However, the Israeli Government, according to the Special Rapporteur, is now portraying the construction of the wall as a political measure that aims at annexing 10 per cent of the Palestinian land located between the Green Line and the wall, where 76 per cent of Israeli settlers live.

The separation wall has a grave impact on the Palestinians who live in the enclosed area between the Green Line and the wall. They will be separated from their workplaces, schools, universities and specialized health services. Their social life is completely fragmented. Palestinians who live on the eastern side of the wall face enormous economic difficulties because they can no longer reach their land to gather their harvests or to raise their cattle without obtaining special Israeli permits, which are very hard to get.

In this regard, the Islamic Conference of Foreign Ministers, at its thirty-third session, held in Baku from 19 to 21 June 2006, strongly condemned the continuation by Israel, the occupying Power, of its construction of the expansionist wall in the occupied Palestinian territories, including that part of the wall which is known as the Jerusalem envelope, which aims at dismembering Jerusalem and isolating its inhabitants. The Conference reiterated the importance of the General Assembly's call to Switzerland, as the depositary State of the Fourth Geneva Convention, to hold the necessary consultations among the High Contracting Parties of the Convention. In a number of resolutions, the Security Council has reaffirmed the applicability of the Fourth Geneva Convention to the Arab territories occupied by Israel since 1967, including East Jerusalem. The Council has called upon Israel, as the occupying Power, to comply strictly with the Convention.

The establishment of the Register is indeed an urgent matter that is born of a conviction that it has an important role to play as a mechanism to limit Israeli violations against the Palestinian people, who continue to languish under the occupation.

Mr. Ali (Malaysia): First of all, Madam President, let me thank you for convening this very important meeting.

When we met more than two years ago, we requested the Secretary-General, in resolution ES-10/15, to establish a register of damage caused to all natural or legal persons concerned in connection with paragraphs 152 and 153 of the advisory opinion of the International Court of Justice of 9 July 2004 on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, including in and around East Jerusalem. We are dismayed that it has taken quite some time for the register to be established. However, we wish to express our appreciation to the Secretary-General

for his effort to provide the institutional framework for the establishment of the register, as outlined in his report contained in document A/ES-10/361.

Before proceeding further, my delegation wishes to associate itself with the statement delivered by the representative of Cuba on behalf of the Non-Aligned Movement. My delegation would also like to associate itself with the statement delivered by the Permanent Observer of Palestine.

The International Court of Justice, the principal judicial organ of the United Nations, through its advisory opinion of 9 July 2004, concluded that by the construction of the wall in the occupied Palestinian territory, Israel had violated various international law obligations incumbent upon it, and that, since the construction of the wall entailed the requisition and destruction of homes, businesses and agricultural holdings, Israel had the obligation to make reparation for the damage caused to all the natural or legal persons concerned. The Court further stated, in paragraph 153 of the opinion, that

> "Israel is accordingly under an obligation to return the land, orchards, olive groves and other immovable property seized from any natural or legal person for purposes of construction of the wall in the Occupied Palestinian Territory. In the event that such restitution should prove to be materially impossible, Israel has an obligation to compensate the persons in question for the damage suffered. The Court considers that Israel also has an obligation to compensate, in accordance with the applicable rules of international law, all natural or legal persons having suffered any form of material damage as a result of the wall's construction." (*A/ES-10/273*)

The advisory opinion of the International Court of Justice is very clear. There should be no doubt in anyone's mind about Israel's obligation and responsibility to return those lands or properties seized for purposes of construction of the wall in the occupied Palestinian territory and to compensate those affected.

But despite this fact, we continue to witness total disregard by Israel of its obligations and responsibility in this matter. What is of greater concern is that Israel continues its intransigent behaviour by totally ignoring the Court's advisory opinion and continuing the construction of the wall and its policy of strangulating the social and economic life of the Palestinians.

It has been widely acknowledged that the wall has brought nothing but more hardship and despair to the Palestinians, as if the constant harassment, violence and military attacks were not enough. The wall has had an impact on the lives of more than half a million Palestinians living within one kilometre of it. The impact of the wall and of settlement activities on Palestinian agriculture also continues to be substantial. It has led to the confiscation of more than 273,000 hectares of the West Bank's most fertile land — representing approximately 15 per cent of all West Bank agricultural land — and to the loss of control over 49 Palestinian water wells. In addition, the destruction of physical infrastructure has left 22 per cent of the West Bank areas surrounding the wall without road and water networks and has left nearly 50 per cent of the residents without access to health services.

Palestinians face economic hardship, as they are unable to reach their land to harvest crops, graze animals or earn a living. Residents have also been cut off from schools, universities and hospitals. The damage caused by the destruction of land and property for the wall's construction will take many years to repair. It will hinder Palestinian development if and when a political solution is found.

Sadly, the wall is but the most visible sign of the transformation of the occupied Palestinian territory into a vast open-air prison. Its construction has led to a severe deterioration of the human rights situation of those living under Israeli occupation. The wall has adversely affected the social fabric of Palestinian communities, and it will continue to do so.

My delegation has highlighted the impact of the wall on the lives of the Palestinians to show that it goes beyond just the economy. The hardship that the Palestinians have faced daily for so many years is immeasurable and cannot in any way be quantified in terms of monetary value. That notwithstanding, the establishment of the Register of Damage would indeed be very timely and important. It would provide a technical, fact-finding process of listing or recording the fact and type of the damage caused as a result of the construction of the wall. It would provide immediate monitoring of damages caused. In short, the Register would serve as a comprehensive record of the damage caused to all natural and legal persons as a result of the construction of the wall.

For far too long, the hardship and the predicament of the Palestinians have never been recorded or journalized in a proper register under the administration of the United Nations. It is only right and proper that we begin to do so now, so that the injustice inflicted on the Palestinians by Israel will forever be in the annals of history. We must make earnest efforts to ensure that the Palestinians will not be denied that right, and we must establish the Register of Damage, including the setting up of its office, as soon as possible.

We call on Member States, the parties involved and the relevant United Nations agencies to extend their support and cooperation to the office of the Register of Damage. Such support and cooperation would ensure successful implementation of the Register. The Register must be more than just a shopping list; it must be a well prepared and substantiated document that enables the affected people to be compensated for their losses and permits the restitution of their land and properties.

Israel is accountable and responsible for the entire predicament and the hardship of the Palestinians caused by the construction of the wall. There is no valid excuse that Israel can use to justify its actions. The Secretary-General, in one of his reports to the General Assembly, stated:

> "I acknowledge and recognize Israel's right and duty to protect its people against terrorist attacks. However, that duty should not be carried out in a way that is in contradiction to international law". (*A/ES-10/248, para. 30*)

The international community should not allow Israel to continue to ignore with impunity the advisory opinion of the International Court of Justice and the relevant Security Council and General Assembly resolutions. It has the full obligation and responsibility to make reparations for all the damages caused by the wall. It must immediately stop the construction of the wall and dismantle and remove its completed sections. We urge the international community, and in particular the Assembly, to ensure that Israel acts immediately in that regard.

The Assembly is also duty-bound to ensure that the lives and livelihoods of the Palestinians are secured. Draft resolution A/ES-10/L.20/Rev.1, entitled "Establishment of the United Nations Register of Damage caused by the Construction of the Wall in the Occupied Palestinian Territory", which is now before us, is intended to attain that objective. We call on the Assembly to adopt the draft resolution.

Mr. Al-Murad (Kuwait) (*spoke in Arabic*): The State of Kuwait would like at the outset to emphasize the crucial importance of the resumption of the tenth emergency special session, on illegal Israeli actions in occupied East Jerusalem and the rest of the occupied Palestinian territory. We also wish to thank the Secretary-General for his report (A/ES-10/361), on the establishment of the United Nations Register of Damage caused by the Construction of the Wall in the Occupied Palestinian Territory. In addition, I wish to associate myself with the statement made by the representative of Cuba on behalf of the Non-Aligned Movement.

Israel, the occupying Power, continues its illegal construction of the separation wall on the occupied Palestinian territory, including in and around East Jerusalem, in total disregard of the 9 July 2004 advisory opinion of the International Court of Justice, which states that the wall being constructed by Israel is illegal, because it is contrary to provisions of international law and to relevant United Nations resolutions, and that the wall must therefore be dismantled. The Court also concluded that the expansion of settlements is contrary to international law. The advisory opinion of the Court, which is the supreme judicial body of the United Nations, was adopted by 14 votes to 1 and is a historic milestone in international law. It clearly sets out the applicable provisions and principles in this area, including those of international humanitarian law and human rights law — provisions and principles that are being violated by Israel, the occupying Power, through its construction of the illegal separation wall.

The State of Kuwait wishes to reaffirm the advisory opinion of the International Court of Justice, which states that the wall is illegal, that Israel must halt all further work and that the wall should be demolished. Building the wall constitutes a flagrant violation of the Fourth Geneva Convention. Large areas of Palestinian territory have been illegally annexed, which has displaced civilians and compounded the humanitarian problems of the Palestinian people, who are already suffering so much.

It is obvious that the construction of the separation wall is a major obstacle to the implementation of the Road Map, because it hampers

the establishment of a viable Palestinian State living side by side with the State of Israel. The measure has also undermined any possibility of achieving the two-State solution and given rise to attacks and counter-attacks.

With the closure of transit points, the seizure of land and commercial enterprises, and increasing poverty and unemployment, the wall's construction has had serious consequences for the conditions of life and economy of the oppressed Palestinian people. Israel must therefore assume its responsibility to return the land seized and provide compensation to those who have suffered damages as a result of the wall's construction, pursuant to paragraph 153 of the advisory opinion of the International Court of Justice.

Kuwait welcomes the establishment of the United Nations Register, which would redress the current situation. Its establishment pursuant to resolution ES-10/15 of 20 July 2004 is an important step in listing the damage suffered by natural or legal persons resulting from the construction of the wall in the occupied Palestinian territories and East Jerusalem. It draws attention to the need to register all types of damage in connection with paragraphs 152 and 153 of the advisory opinion. The Register would be established within six months of the General Assembly's adoption of the draft resolution before it and would immediately begin to accept applications for compensation.

In conclusion, I very much hope that the international community will assume its responsibilities with respect to the Palestinian people so that they will be able to exercise their inalienable rights, bring to an end their half-century of suffering, be free of Israeli occupation, and establish their independent State on their national soil, with Jerusalem as its capital. Only thus will peace, stability and security be achieved. A just and comprehensive peace, based on international legitimacy, must be found in order to bring an end to the Israeli-Arab conflict being played out in Palestine, pursuant to resolutions 242 (1967) and 338 (1973), the principle of land for peace, the road map and the Arab Peace Initiative.

Mr. Al-Shamsi (United Arab Emirates) (*spoke in Arabic*): On behalf of the delegation of the United Arab Emirates, I have the honour to convey to you, Madam, our gratitude and appreciation for your wise management of the resumed tenth emergency special session. I would also like to take this opportunity to thank Secretary-General Kofi Annan for his valuable report, which is contained in document A/ES-10/361 and explains the institutional framework required for the implementation of paragraph 4 of resolution ES-15/10. On behalf of my country, I also wish him every success in his personal life after the expiry of his term of office at the end of the year.

We support the statement made by the representative of Cuba on behalf of the Non-Aligned Movement.

The resumption of the tenth emergency special session pursuant to resolution ES-10/14 — which was adopted by a majority vote in the General Assembly in December 2003 and contained a request for an advisory opinion from the International Court of Justice on the legality of the construction of a racist separation wall by Israel, the occupying Power, inside the occupied Palestinian territories, including in and around East Jerusalem — demonstrates complete respect for the principles of international law, especially since the session will evaluate the international community's implementation of the legal advisory opinion that was issued by the world's highest judicial body on 9 July 2004.

The request for the establishment of the legal Register of Damage by the International Court of Justice in order to record damage to all natural or legal persons, as referred to in paragraphs 152 and 153 of the advisory opinion, reflects the conviction of its independent judges, whose integrity and high professional competence are well proven, that the construction of the wall is illegal and should be stopped, and the wall itself dismantled. It further demonstrates their strong sense of the extent of the growing legal, humanitarian, social, psychological, environmental, political and sovereignty implications suffered by the Palestinian people due to the construction of the wall.

Anyone who has followed Israel's engagement in building the wall since June 2002 has clearly witnessed the implementation of a progressive expansionist scheme aimed not only at isolating and confining hundreds of thousands of Palestinians in narrow and isolated cantons and at barring their access to schools, hospitals, workplaces, land, property and places of worship, but also at the widespread and illegal seizure of thousands of acres, water sources and other natural resources. That is in addition to the forced

displacement of more Palestinians in the framework of the so-called closed military zones and the subjection of about 46 per cent of territory of the West Bank and East Jerusalem and the entire Jordan valley to complete Israeli control with a view to legalizing the settlements that have been built there illegally in order unilaterally to create new political and demographic facts in the Palestinian territories and to establish the borders of the State of Israel before the final status negotiations are initiated. All that will come at the expense of the inalienable and sovereign rights of the Palestinian people, including their right to establish an independent State, with Jerusalem as its capital. It also constitutes a gross violation of the United Nations Charter and the provisions of international law and other human rights instruments, especially article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Times of War.

The flagrant security pretexts to which Israel repeatedly resorts to justify the construction of the separation wall — which is now 662.2 kilometres long and extends more than twice the length of the boundaries of the Palestinian territories occupied by Israel since 1967 — will no longer deceive the international community, particularly since the advisory opinion of the International Court of Justice has affirmed in direct and explicit language that Article 51 of the Charter, to which the Government of Israel used to refer to justify its acts, does not apply to the construction of the separation wall inside the Palestinian territories. Furthermore, the Israeli Government can no longer claim the right to self-defence to obfuscate the wrongfulness and illegality of the wall, which was built contrary to the provisions of international law.

Thus, the United Arab Emirates, which considers the advisory opinion of the International Court of Justice to be a legal confirmation of the applicability of the Geneva Convention to the occupied Palestinian territory, including East Jerusalem, reiterates its demand that the international community assume its full responsibilities for ensuring Israel's immediate and unconditional compliance with all the legal requirements set out in the advisory opinion of the International Court of Justice, particularly the endorsement of the illegality of the wall and the call for its total removal and dismantling, including all the Israeli settlements constructed illegally in Palestinian territories between the separation wall and the Green Line, and the obligation to make reparations for all the resulting damage.

We have carefully considered the proposal made by the Secretary-General concerning the statute of the Register of Damage caused by the construction of the wall and its maintenance, which limits the goals of the Register to merely a comprehensive documentation of all damage and losses, without any assessment of the damage or any determination of the necessary compensation or settlement of claims. We therefore call for the following.

First, transparency and flexibility should be observed in the rules and regulations governing the establishment and maintenance of the Register. The Register's administrative, legal and technical team must have the necessary competence and be easily accessed in order to ensure the successful attainment of the objectives for which the Register was established, which include the comprehensive documentation, through a flexible approach, of all damages, losses and claims relating to the legal, economic and social implications of the construction of the separation wall.

Secondly, the Register must be maintained throughout the existence of the separation wall in the occupied Palestinian territories, including in and around East Jerusalem. There is a need to raise awareness among the Palestinian people as to the purpose of the Register and to provide them with the necessary information on how to complete and submit claim forms.

Thirdly, we must advance the objective of the Register through the establishment of an international mechanism aimed at providing an accurate assessment of the damage caused by, and the legal impact of, the construction of the wall by Israel, and determine appropriate compensation for such damage, including that resulting from having prevented the Palestinians from accessing their workplaces, health services, educational institutions and water resources in the areas between the Green Line and the separation wall.

Fourthly, the Israeli Government must be obliged to make reparations for all damage and its consequences, in accordance with the rules and norms of international law as well as the advisory opinion of the International Court of Justice, including the return of all occupied lands, properties and natural resources to the Palestinians, as well as pay appropriate financial compensation for all

damage, suffering and losses caused during the period of construction of this wall and beyond.

Fifthly, all Member States and all others concerned must fully cooperate with the office of the Register of Damage to facilitate the implementation of its specific mandate.

Sixthly, the General Assembly must continue its consideration of this important matter and take all measures necessary until Israel has complied fully with the provisions of the advisory opinion of the International Court of Justice, including restoration of the rights of Palestinians affected by the construction of the racist separation wall in their occupied territories.

In conclusion, the United Arab Emirates, which demands the complete cessation of all assistance provided with respect to the construction of the Israeli wall and the illegal settlements inside the Palestinian territories occupied since 1967, including in and around East Jerusalem, calls for the imposition of punitive measures against those entities, companies and individuals that have contributed to and profited from the construction of the wall. The United Arab Emirates also calls upon all Member States to continue their condemnation and non-recognition of Israel's illegal and unilateral acts and to see that such measures are halted, as they constitute a real threat to efforts to achieve a just, comprehensive and lasting solution to the Palestinian question and the situation in the Middle East. Such a solution must be based on the two-State vision: a viable Palestinian State and an Israeli State, living side by side, within safe and internationally recognized borders, which will ultimately lead to stability, security, harmony and coexistence among all countries and peoples of the region.

Mr. İlkin (Turkey): My delegation has associated itself with the statement made by the representative of Finland on behalf of the European Union. As our views and concerns are generally reflected in that statement, I will confine myself to making the following remarks.

Whether we call it a wall, a security fence or a barrier, the structure which is being built in the West Bank has become a visible hindrance to achieving a just and lasting peace in the region. Cutting deep into certain areas of Palestinian territory, that structure has further complicated the already vexing issues pertaining to the Palestinian question. The International Court of Justice, in its advisory opinion of July 2004, deemed the wall and the policies associated with it as contrary to international law. Indeed, they also run counter to the vision of two States living side by side within secure and recognized borders.

Turkey believes that in order to reach a viable settlement, the basic parameters of a just and comprehensive solution must not be undermined by unilateral actions. The creation of a de facto situation on the ground which would prejudge the borders of a future Palestinian State and the issue of settlements in the West Bank do not bode well for efforts to revitalize the peace process. It is evident that those policies have led not only to a physical separation but also, at the mental level, to a deep fissure between the two peoples.

On the other hand, Turkey recognizes the right of every State to protect its citizens. This also definitely applies to Israel. However, measures adopted to curb violence should in no way undermine the legitimate rights and vital interests of the Palestinians.

Turkey wishes to see new dynamics in the context of the Palestinian-Israeli conflict through the mutual implementation of confidence-building measures by the two parties. We believe that the long-needed ceasefire agreement between President Abbas and Prime Minister Olmert in the Gaza Strip has been a step in the right direction. We welcome the reconciliatory speech delivered by Prime Minister Olmert in the Knesset late last month, reflecting the desire of Israel for dialogue and compromise. Having the ceasefire extended to the West Bank would certainly further that undertaking.

It is also our sincere wish that both sides make every effort to put an end to the violence and insecurity which have gripped the region for too long. Both the Palestinians and the Israelis certainly deserve better. The international community must assist both sides in generating fresh momentum towards the objective of achieving lasting peace, security and stability, for the well-being of all peoples in the region.

On this occasion, we also appeal to the leaders of Palestine to overcome their internal differences and to join hands in the pursuit of peace.

The meeting rose at 1.20 p.m.